

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

RESOLUTION NO. R6T-2014-(PROPOSED)

**LAHONTAN WATER BOARD
SUPPLEMENTAL ENVIRONMENTAL PROGRAM
ENDOWMENT FUND PILOT PROJECT
WITH THE
TRUCKEE RIVER WATERSHED COUNCIL**

WHEREAS, the California Regional Water Quality Control Board, Lahontan Region (Water Board) finds:

1. The Water Board adopted the “Lahontan Water Board Supplemental Environmental Project (SEP) Policy” (Lahontan SEP Policy) at its February 12-13, 2014 meeting in South Lake Tahoe, California.
2. The Lahontan SEP Policy supports establishing partnerships with independent third parties (partner organizations) to (1) identify projects that may qualify for SEPs, (2) manage SEP escrow accounts, and (3) implement SEPs consistent with the Water Board’s expressed priorities.
3. The Water Board has delayed full implementation of the Lahontan SEP Policy until a pilot program is completed and evaluated. Information from the pilot program will be used to refine the attributes sought in potential partner organizations, refine the template partnership agreements, refine SEP evaluation criteria and processes, and refine processes for developing SEP escrow accounts.
4. At its October 10, 2013 meeting, the Water Board identified the remaining Northstar Mountain Properties settlement monies to fund the pilot program. Water Board Order No. R6T-2009-0012, issued to Northstar Mountain Properties, required full implementation of a SEP as a part of a negotiated settlement. The Order established an escrow account within the State Water Resources Control Board’s Cleanup and Abatement Account Program, SEP Project Number SEP-001, in order for Northstar Mountain Properties to remit quarterly payments. However, Northstar Mountain Properties filed bankruptcy prior to remitting the full liability amount, and the required SEP was not completed in its entirety. An estimated \$704,790.12 (but no more than \$741,790.12) remained in the State Water Resources Control Board Cleanup and Abatement Account SEP Project Number SEP-001 at the end of the 2013 fiscal year.

5. At its October 10, 2013 meeting, the Water Board identified the Truckee River Watershed Council (TRWC) as an appropriate entity for implementing the pilot program. The TRWC was selected because of its extensive history for successfully completing water quality projects, its transparent stakeholder process for identifying and selecting projects, and its financial accountability. Furthermore, the TRWC manages projects within the same hydrologic unit (Truckee River) where the Northstar Mountain Properties violations occurred, thereby providing an appropriate geographic nexus for the use of the remaining Northstar Mountain Properties settlement monies.
6. The TRWC has identified three restoration projects that will be completed as a part of the pilot program – the Elizabethtown Meadows Restoration, Middle Martis Creek Wetlands Restoration, and Dry Creek Restoration projects. All three projects are separate and complete actions, and are unrelated and have independent utility from one another. The proposed agreement with the TRWC, attached to this Resolution, provides additional project details and funding levels for these projects.
7. Compliance with the California Environmental Quality Act (CEQA) has not yet been completed for the three projects. Placer County will be the lead agency for CEQA compliance for both the Elizabethtown Meadows Restoration and Middle Martis Creek Wetlands Restoration projects. The Water Board will be a responsible agency for those projects. The Dry Creek Restoration project will need compliance with both the National Environmental Policy Act (NEPA) and CEQA, and the United States Forest Service will be the NEPA lead agency and the Water Board will likely be the lead agency for CEQA.
8. The TRWC has requested that an initial \$2,000 of the funding be used to complete CEQA for the Elizabethtown Meadows Restoration project. Funding for a planning study, including information gathering purposes, is determined to be exempt from CEQA provisions pursuant to Public Resources Codes 21102; 21150 and California Code of Regulations, Title 14 Sections 15262; 15306.
9. The Water Board cannot release funding for the construction of the Elizabethtown Meadows Restoration and Middle Martis Creek Restoration projects until Placer County, as lead agency, completes the appropriate CEQA documentation, approves the project, and files the appropriate notice of project approval; submits this information to the Water Board for review; and the Water Board or its delegee reviews and considers the CEQA documentation and issues findings in compliance with its role as a responsible agency under CEQA. Similarly, the Water Board cannot release funding for the construction of the Dry Creek Restoration project until the Water Board complies with CEQA and determines project approval is appropriate based on the administrative record, including CEQA documentation.
10. The Water Board has notified interested parties throughout the Lahontan Region of its intent to adopt this Resolution by posting to a list server and on the Water Board's web site.
11. The Water Board, in a public meeting, heard and considered all comments regarding the Resolution.

THEREFORE, BE IT RESOLVED THAT:

1. The Water Board authorizes the Water Board Executive Officer to request the transfer of all remaining funds within State Water Resources Control Board's Cleanup and Abatement Account Program, SEP Project Number SEP-001, to fund the pilot program.
2. The Water Board approves the agreement with the TRWC (Attachment A) to proceed with planning for implementation of the pilot program. Two-thousand dollars of the funds can be released immediately for funding the completion of CEQA compliance for the Elizabethtown Meadows Restoration project. All remaining funds for the projects cannot be released until the Water Board has completed CEQA, makes appropriate findings in compliance with its role as either a lead or responsible agency under CEQA, and determines in light of the entire record if project approval is appropriate.
3. The Water Board delegates the authority to its Executive Officer to review or prepare CEQA documentation, issue any findings required by CEQA, and approve or reject the release of funds necessary for project construction. Nothing in this Resolution removes from the Executive Officer's discretion the ability to require mitigation measures or alternatives, including the no project alternative, after review of the environmental documents. If after the completion of the environmental review the Executive Officer concludes that a project should not go forward because of its potentially significant environmental impacts, she may issue a statement of override, if appropriate, and approve the project or work with TRWC to identify an alternative project for consideration.
4. The Water Board directs staff to post the agreement with the TRWC in a prominent location on the Water Board's web site.
5. The Water Board authorizes the Water Board Executive Officer to approve any change orders in the agreement that do not involve an increase in funding level.
6. The Water Board directs staff to provide an evaluation of the pilot project upon its completion and prior to full implementation of the Lahontan SEP Policy.

I, Patty Z. Kouyoumdjian, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Lahontan Region, on February XX, 2014.

PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER

Attachment: Memorandum of Understanding: Lahontan Water Board Supplemental Environmental Project Endowment Fund Pilot Program With The Truckee River Watershed Council